

REMARKS

Claims 1-41 are currently before the examiner. Claims 7-12, 16-18, 28-33 and 37-39 have been withdrawn by the examiner as, in the examiner's opinion, relating to a separate and distinct invention. Claims 1-6, 13-15, 19-27, 34-36, 40 and 41 remain rejected.

35 U.S.C. § 103 rejection of claims 1, 3-6, 13-15, 19-21, 23-27, 34-36, 40 and 41

The examiner maintains the rejection of claims 1-6, 13-15, 19-24, 26, 27, 34, 40, and 41 as being unpatentable over Katsarava, et al., U.S. Pub. Pat. App. No. 2002/0015720 in view of Katsarava, et al., Journal of Polymer Science: Part A, 1999, 37:391-407 (Katsarava B), Nagata, Polymer International, 1997, 42:33-38; and Bezemer, et al., Journal of Biomedical Material Research, 2000, 52:8-17.

The examiner, once again repeats the earlier rejections of the instant application over Katsarava in view of Katsarava B, Nagata and Bezemer virtually verbatim. This time, however, the examiner takes a different tack in replying to applicants' 12 february 2010 response to the 12 november 2009 office action.

That is, this time the examiner argues that Bezemer, the reference the examiner invoked in the 12 November 2009 office action addressing applicant's 30 June 2009 response to the 30 March 2009 office action to attempt to overcome the obvious shortcomings of Katsavara, Katsavara B and Nagata,:

illustrates the point that the conversion of a known polyesteramide that includes an aliphatic diol unit into a block copolymer where the two blocks differ by the replacement of the aliphatic diol with a polyetherdiol had been done at the time of the invention.

The examiner's revised position is no more on-point than that presented in reply to applicants' earlier response. That is, as was clearly pointed out by applicants:

Katsavara, Katsavara B and Nagata fail utterly to teach, suggest or motivate the skilled artisan to make a CAD₁A-CAD₂A copolymer. Bezemer does nothing to cure this fatal defect. That is, Bezemer teaches multi-block copolymers having the structure, using Katsavara's letter designation for the monomers as far as they pertain:

...(CMCD_{1 or 2})-(CMCD_{1 or 2})... where M designates a diamine, an element not present in Katsavara. That is, Bezemer first makes a diester-diamide from a diester and diamine with unreacted ester groups at either end of the prepolymer and then performs a transesterification to exchange PEG and hexane diol for the simple ester group on the diesters.

Both simple ester groups are exchanged. There is no suggestion, in fact given the technique – transesterification – there in no way, that each block could have a different exchange group, one PEG and the other hexane diol. This is exemplified perfectly on page 11 of Bezemer where the polymeric structure in the upper right of the page clearly shows what had been simple ester groups replaced with PEG – not only one such simple ester group but both with the same diol. It is absolutely clear that replacement of one simple ester with PEG and the other with hexanediol, or any other dialcohol, has not taken place.

The examiner then expounds at length about the teachings in Bezemer of the benefits of including PEG segments in polymers and in Nagata of incorporating polyethers in polymers to "even out their degradation." The examiner then argues that "by extension" one of ordinary skill in the art would have expected the same benefits in the polymers of Katsavara. The response to that is, of course, so what? Applicants have shown beyond reasonable objection that no polymer possibly derivable from Katsavara has any relation to those of the current invention. Even if that which the examiner proposes were so – and applicants expressly and vigorously refute that such is the case – the resulting polymer would be irrelevant insofar as the claims of the instant invention are concerned.

The examiner tries to relate the cited references to the instant invention by arguing that they all involve "one pot" reactions as if such, even if it were true, would make the product resulting from those one pot reactions identical. The examiner argues that such must be the case given the "same monomer proportions for the one pot scheme taught by the references and the instant application." A cursory glance at all the references and at the current specification immediately and unambiguously dispenses with the examiner's assertion. The monomer proportions, not to mention the

reaction sequences and reaction conditions, disclosed in the various references and those disclosed in the current invention do not even approach being "the same."

The examiner concludes with one last ploy to bolster the argument against the instant invention and applicants' response to the previous office action. The examiner argues that the instant application does not explicitly recite that the claimed polymer is a diblock, supposedly, even though the examiner does not say as much, because this would render Bezemer, with its multiblock copolymers somehow relevant. This is absurd. All of the block copolymers exemplified in the instant application are obviously diblock polymer. Further, on page 23, lines 7-10 the structure of block copolymers of the invention is clearly set forth: $[M-P]_m-[M-Q]_n$. This is clearly a classic diblock copolymer.

Beyond question, the combination of Katsarava, Katsarava B, Nagata and Bezemer does not come close to rendering the instant invention obvious. The examiner is requested to one again reconsider and based thereon this time withdraw the rejections.

CONCLUSION

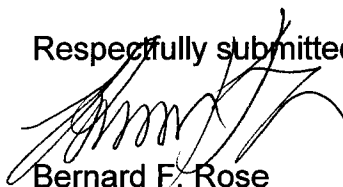
Based on the above remarks, applicant believes that this application is in condition for allowance and respectfully requests that it be passed to issue.

Applicant does not believe any fee is due with this response. If this is incorrect, the examiner is authorized to charge any amount due to Squire, Sanders & Dempsey Deposit Account No. 07-1850.

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Squire, Sanders & Dempsey L.L.P.
One Maritime Plaza, Suite 300
San Francisco, CA 94111-3492
(415) 954-0200

Respectfully submitted,



Bernard F. Rose
Reg. No. 42,112